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Attorneys for Defendants
LIFE INSURANCE COMPANY OF NORTH AMERICA and PFIZER, INC.

UNITED STATES DISTRICT COURT

FOR THE SOUTHERN DISTRICT OF CALIFORNIA

COURTNEY HALBROOKS, Plaintiff, vs. LIFE INSURANCE COMPANY OF NORTH AMERICA; and PFIZER, INC. Defendants.	Case No.: 08-CV-1466 LAB (NLS) **NOTICE OF ERRATA** – TO CERTIFICATE OF SERVICE OF NOTICE TO ADVERSE PARTY OF REMOVAL OF ACTION TO FEDERAL COURT

On August 12, 2008, Defendants Life Insurance Company of North America and Pfizer, Inc. removed this matter from the Superior Court of California for the County of San Diego to this Court. One of the documents filed was the "Certificate of Service of Notice to Adverse Party of Removal of Action to Federal Court." That document certified that Defendants had served Plaintiff Courtney Halbrooks with, among other things, a state court pleading entitled "Notice to Adverse Party of Removal of Action to Federal Court." *See Certificate*, ¶ 2. The document was identified as Exhibit "1," thereto. *Id.* Unfortunately, while Defendants **did** correctly serve Plaintiff with the Notice to Adverse Party of Removal of Action to Federal Court, the wrong document was attached as Exhibit "1."

To ensure that there is no confusion to Plaintiff or the Court, Defendants hereby file this Notice of Errata and attach the correct document as Exhibit 1. A copy of this Notice of Errata is being served by mail on Plaintiff.

Dated: August 13, 2008

WILSON, ELSER, MOSKOWITZ, EDELMAN & DICKER LLP

By: /s/ Russell H. Birner
ADRIENNE C. PUBLICOVER
RUSSELL H. BIRNER
Attorneys for Defendants
LIFE INSURANCE COMPANY OF NORTH AMERICA and PFIZER, INC.

EXHIBIT "1"

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LIFE INSURANCE COMPANY OF NORTH AMERICA and PFIZER, INC.

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF SAN DIEGO

COURTNEY HALBROOKS, Plaintiff, vs. LIFE INSURANCE COMPANY OF NORTH AMERICA; and PFIZER, INC. Defendants.	Case No.: 37-2008-00005085-SC-SC-CTL **Small Claims** - Dept: KM-2 DEFENDANTS' NOTICE TO ADVERSE PARTY OF REMOVAL OF ACTION TO FEDERAL COURT Complaint Filed: July 8, 2008 Trial: August 13, 2008 5:45 p.m.

TO PLAINTIFF, COURTNEY HALBROOKS:

PLEASE TAKE NOTICE that Defendants Life Insurance Company of North America and Pfizer, Inc., seek removal of civil action number 37-2008-00005085-SC-SC-CTL from the Superior Court of the State of California for the County of San Diego to the United States District Court for the Southern District of California. A copy of the Notice of Removal (without exhibits) filed with the United States District Court for the Southern District of California on August 12, 2008, is attached hereto as Exhibit "1."

PLEASE TAKE FURTHER NOTICE THAT, pursuant to 28 U.S.C. Section 1446(d), the filing of the Notice of Removal in the United States District Court, together with the filing of a copy of the notice with the Superior Court of California for the County of San Diego, effects the removal of this action, and the above-entitled state court may proceed no further unless and until the case is remanded.

Dated: August 12, 2008

WILSON, ELSER, MOSKOWITZ, EDELMAN & DICKER LLP

By: ______________________
ADRIENNE C. PUBLICOVER
RUSSELL H. BIRNER
Attorneys for Defendants
LIFE INSURANCE COMPANY OF NORTH AMERICA and PFIZER, INC.

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Attorneys for Defendants
LIFE INSURANCE COMPANY OF NORTH AMERICA and PFIZER, INC.

UNITED STATES DISTRICT COURT

FOR THE SOUTHERN DISTRICT OF CALIFORNIA

COURTNEY HALBROOKS, Plaintiff, vs. LIFE INSURANCE COMPANY OF NORTH AMERICA; and PFIZER, INC. Defendants.	Case No.: **DEFENDANTS' JOINT NOTICE OF REMOVAL PURSUANT TO 28 U.S.C. § 1441(b) and 29 U.S.C. § 1332(e)(1) (FEDERAL QUESTION – ERISA)** Action Filed: July 8, 2008

TO THE COURT AND TO PLAINTIFF COURTNEY HALBROOKS:

PLEASE TAKE NOTICE that Defendants Life Insurance Company of North America (LINA) and Pfizer, Inc. (Pfizer) (collectively "Removing Defendants") hereby seek removal of civil action 37-2008-00005085-SC-SC-CTL from the Superior Court of the State of California for the County of San Diego to the United States District Court for the Southern District of California. Removal of this action is proper for the following reasons:

1. JOINDER

Removing Defendants are the only defendants in the civil action filed on or about July 8, 2008, in the Superior Court for the State of California for the County of San Diego, entitled "Courtney Halbrooks v. Life Insurance Company of North America and Pfizer, Inc.," Case No. 37-2008-00005085-SC-SC-CTL. A true and correct copy of the Complaint is attached hereto as Exhibit "A."

2. TIMELINESS

The first date upon which either of Removing Defendants received a copy of said Complaint was July 15, 2008, when it was served upon CT Corporation, LINA's registered agent for service of process. Removing Defendants are removing this matter on August 12, 2008, within 30 days of its receipt of the Complaint, which is the initial receipt of a copy of the initial pleading.

3. FEDERAL QUESTION JURISDICTION

This Court has jurisdiction under 28 U.S.C. § 1441(b) over matters arising under the Employee Retirement Income Security Act of 1974, 29 U.S.C. §§ 1001, *et seq.* ("ERISA"). ERISA completely preempts all of Plaintiff's state law claims, which are, in fact, claims arising under federal law and thus are removable to federal court. *Metropolitan Life Ins. Co. v. Taylor*, 481 U.S. 58, 66 (1987). This complete preemption operates to confer original federal subject matter jurisdiction notwithstanding the absence of a federal cause of action on the face of the complaint. *In re U.S. Healthcare, Inc.*, 193 F.3d 151, 160 (3rd Cir. 1999). Based on the facts set forth below, which were true at the time the Complaint was filed and which remain true as of the date of filing of this Notice of Removal, this action is governed by ERISA and therefore properly removed to this Court.

Plaintiff's sole allegation is that she is entitled to long-term disability benefits and "COBRA insurance reimbursement benefits" from her employer, Pfizer, and the asserted disability insurer, LINA, based on an alleged wrongful denial of long-term disability benefits. *Complaint*, p.2, ¶ 3. The long-term disability insurance policy at issue provides group disability insurance coverage to the employees of Pfizer. A true and correct copy of the policy at issue is attached hereto as *Exhibit B*.[1]

Federal law under ERISA controls actions brought to recover benefits and to enforce rights under employee welfare benefit plans. 29 U.S.C. § 1132(e)(1); *Pilot Life Ins. Co. v. Dedeaux*, 481 U.S. 41 (1987). Removal of such cases to federal court is proper. *Taylor, supra.* According, this matter is governed by ERISA and, therefore, is removable to this Court under 28 U.S.C. § 1441(b).

4. PROCESS

Exhibit "A," attached hereto, constitutes the entire process and pleadings filed in the state court action.

This Notice of Removal is being filed without prejudice to Removing Defendants' objections and defenses. Written notice of the filing of this Notice of Removal has been given to all adverse parties and a copy has been filed with the Clerk of the Superior Court of the State of California for the County of San Diego, in accordance with the provisions of 28 U.S.C. § 1446(d).

WHEREFORE, Removing Defendants pray that the above action pending in the Superior Court of California for the County of San Diego be removed from that court to this Court.

Dated: August 12, 2008

WILSON, ELSER, MOSKOWITZ, EDELMAN & DICKER LLP

By: ______________________
ADRIENNE C. PUBLICOVER
RUSSELL H. BIRNER
Attorneys for Defendants
LIFE INSURANCE COMPANY OF NORTH AMERICA and PFIZER, INC.

[1] Although generally confined to the face of the complaint in deciding whether to exercise removal jurisdiction, the Court may look outside of the complaint in cases where complete preemption is alleged, *e.g.*, when removal is based on ERISA preemption of state law claims for benefits pursuant to an ERISA-governed plan. *See Parrino v. FHP, Inc.*, 146 F.3d 699, 704 (9th Cir. 1998), *cert. denied*, 525 U.S. 1001 (1998) ("a federal court may look beyond the face of the complaint to determine whether the claims alleged as state law causes of action in fact are necessarily federal claims.")

PROOF OF SERVICE
STATE OF CALIFORNIA, COUNTY OF LOS ANGELES

I am employed in the County of Los Angeles, State of California, by WILSON, ELSER, MOSKOWITZ, EDELMAN & DICKER LLP and am over the age of 18 and not a party to the within action. My business address is 555 South Flower Street, Suite 2900, Los Angeles, California 90071.

On August 12, 2008, I served the foregoing document described as **DEFENDANTS' JOINT NOTICE OF REMOVAL PURSUANT TO 28 U.S.C. § 1441(b) and 29 U.S.C. § 1332(e)(1) (FEDERAL QUESTION–ERISA)** on all interested parties, through their respective attorneys of record in this action, by placing a true copy thereof enclosed in a sealed envelope addressed as follows:

Courtney Halbrooks
3315 Cheyenne
San Diego, CA 92117

___ **(BY MAIL)** I caused such envelope(s) fully prepaid to be placed in the United States Mail at Los Angeles, California. I am "readily familiar" with the firm's practice of collection and processing correspondence or mailing. Under that practice it would be deposited with U.S. postal service on that same day with postage thereon fully prepaid at Los Angeles, California in the ordinary course of business. I am aware that on motion of the party served, service is presumed invalid if postal cancellation date or postage meter date is more than one day after date of deposit for mailing in affidavit.

X **(BY OVERNIGHT-FEDERAL EXPRESS)** I caused said document(s) to be picked up by U.S. Federal Express Services for overnight delivery to the offices of the addressees listed on the Service List.

__ **(BY HAND DELIVERY/PERSONAL SERVICE)** I caused said document(s) to be personally delivered by a courier/attorney service to each addressee on the Service list.

__ **(BY FACSIMILE)** I caused said document(s) to be telephonically transmitted to each addressee's telecopier (Fax) number as noted.

JURISDICTION

XX (Federal) I declare that I am employed in the office of a member of the bar of this court at whose direction the service was made.

__(State) I declare under penalty of perjury that the above is true and correct.

Executed on August 12, 2008, at Los Angeles, California.

Colleen Uno

COLLEEN UNO

PROOF OF SERVICE
STATE OF CALIFORNIA, COUNTY OF LOS ANGELES

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